

1 AN ACT to create the Corporate Practice of Medicine Act.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Corporate Practice of Medicine Act.

6 Section 5. Legislative intent. The General Assembly
7 recognizes that patient care and treatment depends upon the
8 ability of physicians to exercise professional judgment and
9 apply the skill, knowledge, and experience received in
10 professional training to the unique needs of individual
11 patients. The General Assembly finds that the demands of the
12 health care services marketplace often conflict with the
13 ability of the physician to exercise professional judgment
14 for the benefit of patients. The General Assembly further
15 recognizes that with proper protections only certain entities
16 should be allowed to employ physicians to provide care to
17 patients.

18 It is the intent of the General Assembly to provide
19 protection for patients by reducing corporate and financial
20 impediments to a physician's ability to exercise professional
21 judgment by limiting the types of entities that may lawfully
22 employ physicians.

23 Section 10. Definitions.

24 "Employing entity" means a hospital licensed under the
25 Hospital Licensing Act, a licensed hospital affiliate, an
26 ambulatory surgical treatment center licensed under the
27 Ambulatory Surgical Treatment Center Act, a health
28 maintenance organization pursuant to the Health Maintenance
29 Organization Act, a limited health service organization
30 pursuant to the Limited Health Service Organization Act, a

1 voluntary health services plan pursuant to the Voluntary
2 Health Services Plans Act, or a faculty practice plan
3 authorized by law.

4 "Hospital affiliate" means an entity, other than a
5 licensed hospital, that is affiliated with a licensed
6 hospital where the licensed hospital has at least a majority
7 ownership interest and directly or indirectly controls the
8 entity or is under common control with the entity.

9 "Physician" means a physician licensed to practice
10 medicine in all its branches under the Medical Practice Act
11 of 1987.

12 "Professional judgment" means the exercise of a
13 physician's independent clinical judgment in providing
14 medically appropriate diagnoses, care, and treatment to a
15 particular patient at a particular time. Situations in which
16 an employing entity does not interfere with an employed
17 physician's professional judgment include without limitation
18 the following:

19 (1) practice restrictions based upon peer review of
20 the physician's clinical practice to assess quality of
21 care and utilization of resources in accordance with
22 applicable bylaws;

23 (2) supervision of physicians by appropriately
24 licensed medical directors, medical school faculty,
25 department chairpersons or directors, or supervising
26 physicians;

27 (3) written statements of ethical or religious
28 directives; and

29 (4) reasonable referral restrictions that do not,
30 in the reasonable professional judgment of the physician,
31 adversely affect the health or welfare of the patient.

32 Section 15. Corporate practice of medicine prohibited.
33 No corporation, partnership, or association shall practice

1 medicine, hold itself out to practice medicine, furnish
2 medical services, advertise under the name of a licensed
3 physician, or solicit through itself or its agents, officers,
4 employees, directors, or trustees on behalf of a licensed
5 physician, except for the following:

6 (1) physicians organized as a corporation, medical
7 corporation, limited liability company, partnership, or
8 association in which all officers, directors, and owners,
9 as well as managers for limited liability companies, are
10 physicians;

11 (2) physicians employed by a physician or physician
12 group, medical corporation, or a professional service
13 corporation organized under the Professional Service
14 Corporation Act by physicians;

15 (3) hospitals licensed under the Hospital Licensing
16 Act or organized under the University of Illinois
17 Hospital Act;

18 (4) health maintenance organizations organized under
19 the Health Maintenance Organization Act; and

20 (5) employing entities.

21 Section 20. Physician professional employment.
22 Employing entities may employ physicians to practice medicine
23 in all of its branches provided that the following
24 requirements are met:

25 (1) The employing entity and the employed physician
26 shall sign a statement acknowledging that the employer
27 shall not have or exercise control or direction over the
28 physician's exercise and execution of his or her
29 professional judgment. This signed statement shall take
30 the form of a provision in the physician's employment
31 contract. This statement shall be one of the following:

32 (A) As the employer of a physician, (employer's
33 name) shall not have or exercise control or

1 direction over the practices, manner, or method that
2 the physician uses in the exercise and execution of
3 his or her professional judgment, skill, and
4 practice, except as such control or direction may be
5 exercised by the medical staff in accordance with
6 bylaws.

7 (B) As the employer of a physician, (employer's
8 name) shall impose no restriction on the physician
9 as to methods of diagnosis or treatment or exercise
10 of professional judgment, except for restrictions
11 that may be established by the medical staff in
12 accordance with bylaws. The physician-patient
13 relationship shall be maintained.

14 The signed statement shall be retained by the
15 employer and physician and be available to the Department
16 of Professional Regulation upon request. The Department
17 of Professional Regulation may prepare a model statement
18 by rule.

19 (2) No employing entity shall adopt or enforce,
20 either formally or informally, any policy, rule,
21 regulation, or practice inconsistent with the provision
22 of adequate collaboration, including medical direction of
23 licensed advanced practice nurses or supervision of
24 licensed physician assistants and delegation to other
25 personnel under Section 54.5 of the Medical Practice Act
26 of 1987.

27 (3) A physician who believes that an employing
28 entity has violated this Act may seek review of the
29 alleged violation under a process established by the
30 employing entity. Such review shall include the making
31 of a recommendation to the employing entity and the
32 employed physician regarding whether the employer
33 violated paragraph (1) of this Section.

34 (4) A physician aggrieved by a violation of this

1 Section shall have a right of action in the circuit court
2 and may (i) recover liquidated damages of \$10,000 or
3 actual damages, whichever is greater, plus reasonable
4 attorneys fees from the offending employing entity and
5 (ii) obtain an injunction or reinstatement of employment
6 with the employing entity, as the court may deem
7 appropriate.

8 Section 25. Advisory opinions. Employing entities and
9 physicians may request an advisory opinion from the Medical
10 Disciplinary Board with respect to whether any employment
11 relationship complies with the provisions of this Act. The
12 Board's opinion shall be presumptively correct. Failure to
13 render such an advisory opinion within 90 days of a completed
14 written request pursuant to this Section shall create a
15 rebuttable presumption that the employment relationship
16 described in the completed written request is not or will not
17 be a violation of this Act.

18 Section 30. Private right of action. Any person
19 aggrieved by a violation of this Act shall have a right of
20 action in circuit court and may recover the following for
21 each violation:

22 (1) against any person who negligently violates a
23 provision of this Act, liquidated damages of \$10,000 or
24 actual damages, whichever is greater;

25 (2) against any person who intentionally or
26 recklessly violates a provision of this Act, liquidated
27 damages of \$20,000 or actual damages, whichever is
28 greater;

29 (3) reasonable attorneys fees; and

30 (4) such other relief as the court may deem
31 appropriate, including an injunction or reinstatement of
32 employment, medical staff membership, or clinical

1 privileges.

2 Section 99. Effective date. This Act takes effect on

3 September 30, 2001.